

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14770 of 2022

1. Amod Prasad Singh, aged 55 years, Male, S/o Ambika Prasad Singh, R/o Suman Palace, Block B, Flat No. 604, RMS Colony, P.S. Kankarbagh, Distt-Patna.
2. Ashutosh Kumar Singh, aged 45 years, Male, S/o Binay Singh, R/o Pustakalaya Lane East Lohanipur, P.S.-Laohanipur, Distt-Patna.
3. Amrita Kumari, aged 38 years, Female, D/o Umesh Prasad Singh, R/o Mahsura, P.s.-Lakhisarai, Distt-Lakhisarai.
4. Richa Anand, aged 35 years, Female, D/o Madhusudan Singh, R/o Bhawanpura, PO-Bhawanpura Maheshpur Madan, Bhawanpur, P.S. Kharik, Distt-Bhagalpur.
5. Dolly Tiwary, aged 45 years, Female, W/o Ranjeet Tiwary, R/o G.C. Banerjee Road, Near Divine Happy School Mundichak, Bhagalpur, P.S.-Jagdishpur, Distt-Bhagalpur.

... .. Petitioner/s

Versus

1. State of Bihar through the Chief Secretary, Govt. of Bihar Main Secretariat, Patna-800015.
2. Bihar State University Service Commission, through its Secretary, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
3. The Secretary, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.
4. The Chairman, Bihar State University Service Commission, 8th Floor, Bihar School Examination Board, Academic Building, Buddha Marg, Patna-800001.

... .. Respondent/s

Appearance:

For the Petitioner/s : Ms. Kanchan Kumari, Advocate

For the State : Mr. Jitendra Kumar Roy 1, SC-13

Mr. Jai Prabhat Kishre, AC to SC-13



For the B.S.U.S.C. : Mr. Priyadarshi Matri Sharan, Advocate

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT
Date: 04-10-2024

Heard learned counsel for the parties.

2. Learned counsel for the petitioners submit that the grievance of petitioner no.1 has been redressed and accordingly, the petitioner no.1 does not press this writ petition.

3. The grievance of petitioner nos. 2 to 5 is that they should be allowed to participate in the selection process, which is to be conducted by the Bihar State University Service Commission (hereinafter referred to as “the Commission”) pursuant to advertisement dated 21.09.2020, under which advertisement, petitioner nos. 2 and 4 had applied for the post of Assistant Professor (Commerce); petitioner no.3 had applied for the post of Assistant Professor (Economics) and petitioner no.5 had applied for the post of Assistant Professor (Philosophy).

4. Learned counsel for the Commission informs this Court that the interview for the post of Assistant Professor (Commerce) and Assistant Professor (Economics)



has already been held and the result thereof, has also been published.

5. The case of the petitioners is that the petitioners belong to Economically Weaker Section (EWS) category of candidates. However, as they did not possess the EWS certificate at the time when the application was submitted before the Commission for the post of Assistant Professor pursuant to the advertisement dated 21.09.2020, the petitioners had applied for the post of Assistant Professor in the respective subjects under the General category candidates. The last date for submission of the application along with the requisite documents including EWS certificate, as prescribed in the advertisement, was 30.12.2020. The petitioners admittedly did not apply under the seats reserved for EWS category by submitting E.W.S. certificate along with the downloaded hard copy of the online filled application within the last date prescribed in the advertisement by the Commission.

6. It is the case of the petitioners that since they belong to EWS category and are now in possession of the EWS certificate, they may be allowed to participate in the



selection process for the post of Assistant Professor under EWS category in the respective subjects under advertisement dated 21.09.2020.

7. Learned counsel for the petitioners has submitted that though the petitioners did not submit EWS certificate along with the downloaded hard copy of the online filled application within the last date prescribed under advertisement dated 21.09.2020, but the same can also be submitted at the time when the petitioners are called for interview by the Commission.

8. Learned counsel for the Commission, on the other hand, has submitted that the candidates applying under the advertisement have to submit all the requisite documents prescribed under the advertisement within the stipulated time as prescribed in the advertisement, failing which the candidature of the candidates, who have not submitted the requisite documents within the last date prescribed in the advertisement, is liable to be rejected. He further contends that in the instant case, since the petitioners did not apply under the seats reserved for EWS category by submitting EWS certificate along with their applications,



there is no question of considering the candidature of the petitioners under EWS category when the petitioners themselves have applied under the General category candidates.

9. Having heard learned counsel for the parties and on perusal of the materials placed on record, the issue that arises for consideration in the instant writ petition is whether the petitioners, though they may belong to EWS category of candidates, can be allowed to participate in the selection process for the post of Assistant Professor under advertisement dated 21.09.2020 under the seats reserved for EWS category candidates even though the petitioners did not apply under the said category by submitting EWS certificate along with their applications as provided in the advertisement.

10. The issue for determination, as framed above, is no longer a *res integra*. It is a settled position of law that selection process has to be conducted strictly abiding by the terms and conditions stipulated in the advertisement itself. Reference in this regard may be made to the decisions of the Hon'ble Supreme Court in the case of ***Bedanga***



Talukdar vs. Saifudaullah Khan, reported in (2011) 12 SCC 85 and the Full Bench of the Patna High Court in the case of *Braj Kishore Prasad vs. State of Bihar* reported in 1998 (3) PLJR 34.

11. In the instant case, Clause 11.1 of the advertisement dated 21.09.2020 issued by the Commission provides that the candidates should attach self-attested Xerox copies of the various certificates including EWS certificate for the candidate of General category and submit the same on or before the last date prescribed in the advertisement which was 30.12.2020.

12. The petitioners, in the instant case, having applied for the posts which was Unreserved, could not have been considered by the Commission for the posts reserved for Economically Weaker Section.

13. Thus, I find no illegality in the action of the respondent/ Commission in not calling the petitioners to take part in the selection process undertaken pursuant to the advertisement dated 21.09.2020 for the post of Assistant Professor in the subjects they have applied for, for the seats reserved of EWS category.



14. For the reasons and discussions made hereinabove, I find no merit in this writ petition and the writ petition stands dismissed with a cost of Rs. 5000/- to be deposited before the Patna High Court Legal Services Committee, Patna.

(Nani Tagia, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	05.10.2024
Transmission Date	N/A

